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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

METABOLIC RESEARCH, INC.,

2:09-CV-2453 JCM (PAL)

Plaintiff(s),

v.

SCOTT J. FARRELL, et al.,

Defendant(s).

ORDER

Presently before the court is defendants' motion for a judgment on the pleadings. (Doc. # 58). No response has been filed even though the deadline date has passed.

Also before the court is the report and recommendation of Magistrate Judge Leen. (Doc. # 70). No response has been filed even though the deadline date has passed.

I. Report and Recommendation

This court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a de novo determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1).

Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

1 Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate
2 judge's report and recommendation where no objections have been filed. *See United States v.*
3 *Reyna-Tapia*, 328 F.3d 1114 (9th Cir.2003) (disregarding the standard of review employed by the
4 district court when reviewing a report and recommendation to which no objections were made); *see*
5 *also Schmidt v. Johnstone*, 263 F.Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit's
6 decision in *Reyna-Tapia* as adopting the view that district courts are not required to review "any
7 issue that is not the subject of an objection."). Thus, if there is no objection to a magistrate judge's
8 recommendation, then this court may accept the recommendation without review. *See e.g.*,
9 *Johnstone*, 263 F.Supp.2d at 1226 (accepting, without review, a magistrate judge's recommendation
10 to which no objection was filed).

11 No objections have been filed to the report and recommendation. Nevertheless, this court
12 finds it appropriate to engage in a de novo review to determine whether to adopt the recommendation
13 of the magistrate judge.

14 The magistrate judge recommended that the complaint be dismissed due to the following
15 sequence of events: (1) in an order, the magistrate judge warned plaintiff that a corporation cannot
16 appear except through counsel; (2) plaintiff did not comply with the order to retain new counsel; (3)
17 the order warned plaintiff that failure to comply could lead to case dispositive sanctions; (4) the
18 magistrate judge then issued an order to show cause why plaintiff did not comply with the order to
19 retain counsel; (5) plaintiff did not respond to the show cause order; and (6) the show cause order
20 reminded plaintiff of the possibility of a recommendation to the district judge for case dispositive
21 sanctions. (*See doc. # 70*).

22 Additionally, both orders by the magistrate judge were returned as undeliverable and plaintiff
23 has failed to update the court with its current mailing address. The magistrate judge recommends
24 dismissal of the complaint because "plaintiff's failure to comply with the court's orders and order
25 to show cause and its failure to keep the court apprised of its current address has interfered with the
26 court's ability to hear this case, delayed litigation, disrupted the court's timely management of its
27 docket, wasted judicial resources, and threatened the integrity of the court's orders and the orderly
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1 administration of justice.” (Doc. # 70). This court agrees and adopts the report and recommendation
2 in its entirety.¹

3 Accordingly,

4 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendants’ motion to for
5 judgment on the pleadings (doc. # 58) be, and the same hereby, is DENIED as moot.

6 IT IS FURTHER, ORDERED, ADJUDGED, AND DECREED that Magistrate Judge Leen’s
7 report and recommendation (doc. # 70) be, and the same hereby, is ADOPTED in its entirety.

8 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that plaintiff’s complaint be
9 dismissed with prejudice. The clerk of the court is ordered to enter judgment and close the case.

10 DATED January 14, 2013.

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13 **UNITED STATES DISTRICT JUDGE**

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26 ¹ Alternatively this court could grant defendants’ motion for judgment on the pleadings
27 pursuant to Federal Rule of Civil Procedure 12(c) because plaintiff has no responded to the motion.
28 Pursuant to local rule 7-2(d), the failure of an opposing party to file points and authorities in response
to any motion shall constitute consent to the granting of the motion.